‘Draft only’

CONCESSION AGREEMENT

Between

BANGALORE DEVELOPMENT AUTHORITY

T. Chowdaiah Road, Kumara Park West, Bangalore – 560 020

AND

‘Concessionaire’

For

“Management of Commercial Facility in Malleshwaram Market Complex, Sampige Road, Malleshwaram, Bengaluru, on Concession Model (PPP)”

May 2025

Office of the Executive Engineer,
Markets Division,
Banaglore Development Authority,
T. Chowdaiah Road,
Kumara Park West,
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THIS CONCESSION AGREEMENT MUTUALLY AGREED AND ENTERED INTO ON THIS THE ..... DAY OF ....., TWO THOUSAND AND ..... AT BANGALORE,

BETWEEN

BANGALORE DEVELOPMENT AUTHORITY, a statutory body established under provisions of Bangalore Development Authority Act, 1976, through and having principal office at T. Chowdiah Road, Kumara Park west, Bangalore – 560020 (herein after referred to as **"BDA"** or **"the Concessioning Authority**" or "**the First Party**" which expression shall unless repugnant to the context include its administrators, successors and assigns), of the ONE PART;

AND

1. **M/s. ……..**, hereinafter referred to as the "**Lead Member";**

2. **M/s. ……..**,hereinafter referred to as the **"Associate Member";**

The Lead Member and Associate Member/s are jointly referred to as the "Concessionaire" or "**theSecond Party**" **which expression shall unless repugnant to**

the context include the respective parties, their legal representatives, assignees and successors-in-interest, **its administrators, successors and permitted assigns, on the OTHER PART.**

The First Party and the Second Party shall, wherever the context may warrant, be hereinafter collectively referred to as the "Parties" and BDA and the Concessionaire shall, wherever the context may warrant, be hereinafter individually referred to as the "Party".

WHEREAS,

A. BDA has been entrusted with statutory powers under provisions of Bangalore Development Authority Act, 1976, and Karnataka Town and country planning Act.1961, for drawing up development plan and town planning Schemes within the Bangalore Metropolitan Area (as recognised by BDA). BDA has represented to the Consortium and the Concessionaire that BDA has been authorised and vested with powers to Re-develop, lease, grant licenses, operate and maintain the Malleshwaram Market property measuring 6522.07 square meters situated at Sampige Road, Malleshwaram, Bangalore (hereinafter collectively referred to as **"Project Site"**). Pursuant to obtaining of such powers, BDA as part of it's ongoing effort to improve the standards of life, and it's quest to transform Bangalore City with an ideal destination with a high quality infrastructure, has decided to develop the 'Project Site' (defined hereinafter). BDA has accordingly developed and constructed Malleshwaram

Market Complex comprising of Lower Basement Floor, Upper Basement Floor, Ground Floor, First Floor, Second Floor, Third Floor, Fourth Floor, Fifth Floor and Terrace Floor and are envisaging to erect an automated Multi Level Car Parking Facility (hereinafter collectively referred to as **"Project Facility"**). **BDA** has agreed to hand over 192 shops to BruhatBangaluruMahanagaraPalike, which were constructed in the Ground Floor of the building (hereinafter collectively referred to as **"Market Facility"**), as part of it's commitment, and the said shops are proposed to be allotted to existing vendors of Malleshwaram Market and to the prospective vendors. The balance entire built up area in the Building in the project site comprising of Lower Basement Floor, Upper Basement Floor, remaining portion of Ground Floor area (other than 192 shops), First Floor, Second Floor, Third Floor, Fourth Floor, Fifth Floor and Terrace Floor including proposed Multi Level Car Parking facility to be developed (hereinafter collectively referred to as **"Commercial Facility"**), is in the offing for commercial use.

B. BDA, has invited proposals to appoint Concessionaire for management of Commercial Facility on a Concession Model, involving private sector participation (under a PPP), by allowing the management thereof by the Concessionaire, on a Design, 'Built to Suit Retails shops', 'office spaces', Lease-Operate-Transfer (DBOLT) Concession framework basis for a Concession period of 30 (thirty) years and is further extendable by the parties for further 30 (thirty) years based on performance.

C. Pursuant to a successful bidding process, the Consortium having offered the highest concession payment in its Financial Proposal, BDA accepted the bid offer of the Consortium and has awarded this Concession to the Consortium

vide its Letter of Acceptance dated ..... and the Consortium has acknowledged the same vide its letter dated .....;

D. The Consortium has duly incorporated a special purpose company for taking up the role of the Concessionaire for financing, designing of built to suit retail shops & office units, construction of retail shops, marketing, maintenance, operation and transfer of the Commercial Facility accordance with the terms and conditions stipulated herein.

E. The Parties hereto are desirous of entering into this Concession Agreement to record the terms, conditions and covenants for grant of the Concession.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:-

ARTICLE 1

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively ascribed to them hereunder:

1.1.1 **"Affected Party"** shall mean the Party claiming to be affected by an Event as specified in Article 7.1.

1.1.2 **"Agreement"** means this Agreement together with all schedules, annexures and plans attached hereto, and includes any amendments hereto made in accordance with the provisions hereof.

1.1.3 **"Applicable Law"** means all laws in force and effect as on the date hereof and which may be promulgated or brought into force and effect hereinafter in India including judgments, decrees, including Byelaws, rules, notifications, injunctions, writs or orders of any court as may be in force and effect during the subsistence and continuance of this Agreement and applicable to the Project / the Concessionaire in relation to the Project and includes any amendments or modifications thereto.

1.1.4 **"Applicable Permits"** means all clearances, permits, licenses, authorizations, consents, sanctions and approvals required to be obtained or maintained by the Concessionaire under Applicable Law, in connection with the execution, renovation, operation and maintenance of the Project during the subsistence of this Agreement.

1.1.5 **"Arbitration Act"** means the Arbitration and Conciliation Act, 1996 and shall include any amendment to or any re-enactment thereof from time to time.

1.1.6 **"BBMP"** means the Bruhat Bengaluru MahanagaraPalike

1.1.7 **"BDA"** means the **Bangalore Development Authority**, the First Party herein.

1.1.8 **"Book Value"**shall mean the value of the capital expenditure incurred on the Project as per the books of the Concessionaire, net of depreciation charged at the rate of 1.63% (one point six three percent) per annum on the basis of straight line method and amortised equally over the Operations Period, duly

verified and certified by an Independent Chartered Engineer who shall be a member of the Institute of Engineers, India and appointed jointly by both the parties.

1.1.9 **'Commercial Facility"** shall mean the commercial space and car parking space developed on the Project Site consisting of Lower Basement Floor, Upper Basement Floor, remaining portion of Ground Floor area (other than 'Market Facility' i.e. 192 shops), First Floor, Second Floor, Third Floor, Fourth Floor, Fifth Floor and Terrace Floor and proposed Automated Multi Level Car Parking facility to be constructed by the Concessioning Authority comprising of all facilities, services and all appurtenances, any other asset comprised therein, for the purpose of commercial use by the Concessionaire including shops, show rooms, shopping mall, amusement park, banks, exhibition halls, Coffee shops, food courts, convention centre, alcoholic liquor, and pub/bars, entertainment centers, (multiplex, cinema hall, auditorium), restaurants, food courts, fitness centre, spa, offices, call centres and BPO's / KPO's, training centers, coaching centers, educational institutions, Mini Halls, healthcare institutions (hospitals, research institutions, health tourism, and other health facilities) museum, games complex with video games, bowling alley, snooker/ billiards etc.), commercial parks, SEZ, and / or office space, business centres, law chambers etc. and such other activities that are legally permissible.

1.1.10 **"Commencement Date"** means the day after signing of the Concession Agreement.

1.1.11 **"Commercial Operation Date"** means Nine (9) months from the date on which the BDA obtains all clearances from various statutory authorities and issues the Occupancy Certificate in respect of the Project Facility.

1.1.12 **"Concession"** shall have the meaning ascribed thereto in Article 2.1 of this Agreement.

1.1.13 **"Concession Fee / Concession Payment"** means the amounts payable by the Concessionaire to BDA in accordance with Article 5.

1.1.14 **"Concession Period"** shall have the meaning ascribed thereto in relevant Article 2.3 of this Agreement.

1.1.15 **"Construction Requirements"** shall mean the requirements for construction of built-to- suit retail shops and offices, set out in Schedule 4.

1.1.16 **"Construction Works"** shall mean all works and things required to be undertaken by the Concessionaire for operations and maintenance of the Commercial Facility, in accordance with the agreement.

1.1.17 **"Contractor"** shall mean any person with whom the Concessionaire has entered into / may enter into any of the Agreements.

1.1.18 **"Drawings"** shall mean all of the drawings, as built drawings and documents pertaining to the Project assets in accordance with the Requirements.

1.1.19 **"Due Date"** means the date(s) on which the Concessionaire has to make payment to BDA in accordance with Article 5.

1.1.20 **"Emergency"** shall mean a condition or situation that is likely to endanger the safety of the individuals on or about the Project Facilities including the safety of the users thereof or which poses an immediate threat of material damage to the Project Facilities.

1.1.21 **"Encumbrance"** means any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest, physical encumbrances, claims for any amounts due on account of taxes, cesses, electricity, water and other utility charges and encroachments on the Commercial Facilities.

1.1.22 **"Expiry"**means expiry of this Concession by efflux of time at the end of thirty (30) years from the Commercial Operations Date.

1.1.23 **"Expiry Date"** means the date on which Expiry occurs.

1.1.24 **"Financing Documents"** means the documents executed by the Concessionaire, in respect of financial assistance provided or to be provided by the Lenders by way of loans, guarantees, subscription to non-convertible debentures, debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements and other documents including re-financing and amendments made in accordance with the provisions of this Agreement.

1.1.25 **"Financial Year"** means the period commencing from April 1 of any given year to March 31 of the succeeding year.

1.1.26 **"Force Majeure"** or **"Force Majeure Event"** means an act, event, condition or occurrence as specified in Article 7.

1.1.27 **"Good Industry Practice"** means the exercise of that degree of skill, diligence, prudence and foresight in compliance with the undertakings and obligations under this Agreement which would reasonably and ordinarily be expected of a

skilled and an experienced person engaged in the implementation, operation and maintenance or supervision of a project similar to that of the Project.

1.1.28 **"(GBA)"** means Greater Bengaluru Authority.

1.1.29 **"Government Agency"** shall mean Government of India, Government of Karnataka or governmental department, commission, board, body, bureau, agency, authority, instrumentality, court or other judicial or administrative body, central, state, or local, having jurisdiction over the Concessionaire, the Project Site, the Project Facilities or any portion thereof, or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement.

1.1.30 **"Lenders"** means financial institutions, banks, funds and trustees for bond holders or debenture holders, individuals or group of individuals who may provide financial assistance to the Concessionaire for financing the Project or any part thereof.

1.1.31 **'Market Facility"** shall mean the shops constructed in Ground Floor (192 shops) of the building to be handed over to BruhatBangaluruMahanagaraPalike by BDA, as part of it's commitment, and the said shops are meant to be allotted to existing vendors of Malleshwaram Market and to the prospective vendors.

1.1.32 **"Material Adverse Effect"** means a material adverse effect on (a) the ability of the Concessionaire to either exercise any of its rights or perform/discharge any of its duties/obligations under and in accordance with the provisions of this Agreement and/or (b) the legality, validity, binding nature or enforceability of this Agreement.

1.1.33 **"Material Breach"** means a breach by either Party of any of its obligations under this Agreement which has or is likely to have a Material Adverse Effect and which such Party shall have failed to cure.

1.1.34 **"O&M Requirements"** shall mean the requirements as to operation and maintenance as set forth in Schedule 5 pertaining to the Project Facilities.

1.1.35 **"Parking Facility"** means the four – wheeler and/or two – wheeler parking spaces already constructed and the Multi Level Car Parking Facility (Automated Parking) to be established in the Project Site by the Concessioning Authority (BDA).

1.1.36 **"Parking Fees"** shall mean the fee payable by the users of the Parking Facility.

1.1.37 **"Performance Security/Guarantee"** shall mean the bank guarantee delivered to BDA by the Concessionaire or it's one of members of Consortium for the due performance of its obligations under this Agreement, in accordance with Article 5.

1.1.38 **"Person"** shall mean (unless otherwise specified or required by the context), any individual, company, body corporate, corporation, partnership, joint venture, trust, unincorporated organization, government or Government Agency or any other legal entity.

1.1.39 **"Preliminary Notice"** means the notice of intended Termination by the Party entitled to terminate this Agreement to the other Party setting out, inter alia, the underlying Event of Default.

1.1.40 **"Project"** means Commercial Facility proposed for management under Concession Model (PPP) which includesDesign, Decorate, Refurbish, Lease, Operate, Maintain which may include initiation of retail space development including shops, show rooms, banks, exhibition halls, Coffee shops, food courts, convention centre, pubs and restaurants, fitness centre, spa, office / commercial space, education institutes, training centres, coaching centres etc. along with the Parking Facilities in the Project Site as per the provisions of this Agreement.

1.1.41 **"Project Agreements"** means collectively this Agreement, contracts for engineering, procurement, construction of partition walls and refurbishment of same, operation, maintenance, sub-concession agreements, lease agreements, sub-lease agreements, any other agreements or contracts (other than Financing Documents) entered into or which may hereafter be entered into by the Concessionaire in connection with the Commercial facility.

1.1.42 **"Project Completion Certificate"** shall mean the certificate issued by the BDA or an Engineer appointed by BDA, certifying, inter-alia, that the Concessionaire has completed construction of the partition walls and refurbishment of same in the Commercial Facilities in accordance with the Construction Requirements.

1.1.43 **"Project Manager"** means a Person appointed by the Concessionaire for the supervision of the Construction Requirements and O&M Requirements, more particularly to undertake, perform, and carry out the duties, responsibilities, services and activities set forth in Schedules 4 and 5.

1.1.44 **"Project Engineer or Project Management Consultant"** means a Person appointed by BDA for supervision and monitoring of compliance by the

Concessionaire with the Construction and O&M Requirements, more particularly to undertake, perform, and carry out the duties, responsibilities, services and activities set forth in Schedule 6.

1.1.45 **"Project Facilities"** means the Project Facility which shall include entire building with all facilities including Parking Facilities, Market Facility and Commercial facility, services and all appurtenances which the Concessioning Authority has developed and constructed and may further build, provide, refurbish, modify, demolish, alter or procure within the Project Site for the better utilisation of the Project Facilities, consistent with Good Industry Practice and the terms of this Agreement.

1.1.46 **"Project Site"** means measuring about 6522.07 square meters situated in Survey Nos. 1711, 1712 and Part of 1715 at Malleswaram, Sampige Road, Malleswaram West Zone, Kadu Malleswara Ward, Ward No.65, Bengaluru, known as '**Malleswaram Market**' ;

1.1.47 **"Senior Lenders Representative"** means the person duly authorised by Senior Lenders to deal with the Parties to the agreement with regard to issues arising out and contained in this agreement.

1.1.48 **"Substitution Agreement"** means the agreement to be entered into among the Concessionaire, BDA and the Lenders providing inter- alia, for substitution of Concessionaire by any person or entity in accordance with the provisions of this agreement and substitution agreement.

1.1.49 **"Termination"** means early termination of this Agreement pursuant to Termination Notice in accordance with the provisions of this Agreement but shall not, unless the context otherwise requires, include Expiry.

1.1.50 **"Termination Date"** means the date specified in the Termination Notice as the date on which Termination shall occur.

1.1.51 **"Termination Notice"** means the notice of Termination by either Party to the other Party, in accordance with the applicable provisions of this Agreement.

1.1.52 **"Tests"** shall mean the tests to be carried out in accordance with the Construction Requirements and if not expressly specified in the said requirements, as instructed by the Project Management Consultant, in accordance with this Agreement and "Testing" and "Tested" shall be construed accordingly.

1.2 Interpretation

In this Agreement, unless the context otherwise requires,

1.2.1 any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies to, or is capable of being applied to any transactions entered into hereunder;

1.2.2 the headings are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;

1.2.3 the words "include" and "including" are to be construed without limitation;

1.2.4 any reference to day, month or year shall mean a reference to a calendar day, calendar month or calendar year respectively;

1.2.5 any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference;

1.2.6 references to recitals, articles, sub-articles, clauses, or Schedules in this Agreement shall, except where the context otherwise requires, be deemed to be references to recitals, articles, sub-articles, clauses and schedules of or to this agreement;

1.2.7 any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or Project Engineer shall be valid and effectual only if it is in writing under the hands of duly authorised representative of such Party in this behalf and not otherwise;

1.2.8 The damages payable by either Party to the other of them as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty.

ARTICLE 2

2 CONCESSION & CONCESSION FEE

2.1 Scope of the Project

2.1.1 The scope of the Project (the "Scope of the Project") shall mean and include, during the Concession Period:

(a) Design/Decorate, Build, Finance, Operate, market, Lease/sub-lease and Transfer (**DBOLT**) i.e. under Concession Model, the Commercial Facility, for a Concession period of 30 (thirty) years and is further extendable by the parties for further 30 (thirty) years based on performance as prescribed in this Concession Agreement.

(b) operation and maintenance of-the Project facility in accordance with the provisions of this Agreement; and

(c) performance and fulfilment of all other obligations of the Concessionaire in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the Concessionaire under this Agreement

2.2 Grant of Concession

2.2.1 Subject to and in accordance with the provisions of this Agreement, BDA hereby exclusively grants to the Concessionaire the concession set forth herein including the exclusive right, license and authority to design, decorate, refurbish, and to exercise and/ or marketing and leasing of 'Commercial Facility' and enjoy the lease hold rights, powers, benefits, privileges, authorisations, other rights and other entitlements as set forth in this Agreement including the right to collect, retain and appropriate all income, benefits, privileges, usufructs, tariffs, Parking Fees, rentals, other fees and

charges in respect of the Commercial Facility, operate and maintain the Project (the "Concession") during the concession period of 30 (thirty) years exclusive of design, construction, marketing period of 2 (two) years and the Concessionaire hereby accepts the Concession and agrees to implement the Project subject to and in accordance with the terms and conditions set forth herein to and to hand over to BDA, the Project Facilities on its completion of Concession Term as stipulated in this agreement on the Expiry Date or the Termination Date, as the case may be.

2.2.2 Subject to and in accordance with the provisions of this Agreement, the Concession hereby granted shall oblige or entitle (as the case may be) the Concessionaire to:

(a) access, lease and handover the Commercial Facility for the purpose of and to the extent conferred by the provisions of this Agreement;

(b) finance and decorate and construct the Commercial Facility;

(c) manage, operate and maintain the Commercial Facility and regulate the use thereof by third parties;

(d) demand, collect and appropriate fee from Users liable for payment of Fee for using the Commercial Facility or any part thereof;

(e) perform and fulfill all of the Concessionaire's obligations under and in accordance with this Agreement;

save as otherwise expressly provided in this Agreement, bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Concessionaire under this Agreement;

2.2.3 BDA has, agreed to execute a lease deed (the "**Lease Deed**") in respect of the Commercial Facility along with right, title and interest of the Project Site in

favour of the Concessionaire for the period of the Concession at it's costs in case the legal need arises.

2.3 Concession Period

2.3.1 The Concession hereby granted for marketing and leasing, design the 'build to suit retail units/outlets', engineer, refurbish, modify, demolish, alter or procure, source the retailers, Sub-lease the retail outlets, finance, operate, maintain, manage and transfer basis ('Concession') is for a period of 30 (thirty) years, commencing from the Commercial Operations Date and ending on the Expiry Date, and is further extendable by the parties for 30 (thirty) years with respect to Commercial Facility alone, based on performance with similar terms.

2.3.2 Provided however, that in the event, the Concessionaire is unable to commence and / or continue marketing, leasing, operation and maintenance and / or its possession or enjoyment thereof is adversely affected by any reason as set out in Clause 7.1 below, the Concession Period shall stand proportionately extended.

2.4 Commercial Operations Date

2.4.1 The commercial operation date (the "COD") of the Project Facility shall commence on completion of Twenty Four (24) months from the date on which the BDA obtains all clearances from various statutory authorities and issues the Occupancy Certificate in respect of the Project Facility.

2.5 Acceptance of Concession

2.5.1 In consideration of the rights, privileges and benefits, etc., as provided herein conferred upon the Concessionaire by the First Party and other good and valuable consideration expressed herein, the Concessionaire hereby accepts

the Concession and agrees and undertakes to perform / discharge all of its obligations in accordance with the provisions hereof.

2.6 Concession Fee

2.6.1 In consideration of the Concession hereby granted, in respect of commercial facility, the Concessionaire shall pay to BDA under the Concession Agreement, Concession Fee as set out in Schedule 2. Escalations if any occurring during the construction and maintenance activities will have no bearing what so ever on the concession fee/payment as set out in Schedule-2. The first Concession Payment pro-rated to the number of days in the relevant quarter shall become due to BDA with effect from the Commercial Operations Date. No payment shall be payable till then to BDA. All subsequent Concession Payments shall be made quarterly every year during the Concession Period. Any delay in making any Concession Payment shall, without prejudice to any other consequences under this Agreement, entail payment of interest on the amount due at the rate of 2% above the Prime Lending Rate of the State Bank of India, per annum from the relevant Due Date till the date of payment/ realization and/or termination of lease at the sole discretion of BDA on failure of making concession payment consecutively for six quarters.

2.6.2 The Concession Payment shall be made by way of cheque in favour of the Commissioner, BDA, payable at Bangalore.

2.6.3 The Concession Payment for the quarter shall be paid on or before 10th day of the first month of the subsequent calendar quarter.

2.6.4 The concession payment payable by the concessionaire to BDA in accordance with Article 5 of this concession agreement shall be inclusive of all indirect taxes applicable, if any, such as goods and service tax, duties,

cesses, rates, levies and such other statutory payments payable under all or any of statutes now or hereafter imposed, increased or decreased from time to time. The Concessionaire shall be entitled to deduct the income tax and GST deductible at source, as applicable under law, from the concession payment and pay the net amount to BDA. The Concessionaire shall furnish to BDA the Tax Deduction at Source (TDS) certificates every year if required.

2.6.5 Property tax and such other taxes, duties payable to local / municipal authorities as applicable would be payable by the BDA as applicable.

ARTICLE 3

3 PROJECT FACILITY & COMMERCIAL FACILITY

Project Site, Parking Facility, Market Facility and Commercial facility and all facilities, services and all appurtenances provided on the Project Site, collectively referred to as “Project Facility”.

3.1 Details of Project Facility:

3.1.1 ‘Project Facility’ comprises of entire building constructed in ‘Project Site’ measuring about 6522.07 square meters of land area consisting of ‘Parking Facility’ in two basement floors, ‘Automated Parking Facility’, ‘Market Facility’ (192 shops in Ground Floor), ‘Commercial Facility’ in remaining area of Ground Floor (apart from 192 shops designated for Market Facility), First Floor, Second Floor, Third Floor, Fourth Floor, Fifth Floor and Terrace Floor, common areas in the Project facility such as passages, Ramps, Drive ways, stair ways, landscaping areas, Coffee Shoppe, Lobbies, Porticos, Grand steps, security out posts, police out post, in Ground Floor, sump tanks, over head tanks, Lifts, Escalators, HVAC installations, Fire service installations, electric Transformers, Generators, and other Services, and all

appurtenances,Rain water charging pits, Compound walls, Entry / Exit gates, security accommodation, Fire war room, toilets etc. and proposed Automated Multi Level Car Parking Facility to be developed with the Project Site annexed to Commercial facility;

3.1.2 'Lower Basement Floor' is meant for accommodating parking Facilities, and also comprises of Sump tanks, Sewage Treatment Plant and it's appurtenances and other common areas;

3.1.3 'Upper Basement Floor' meant for accommodating parking Facilities, and also facilitated Electric Panel Room and it's appurtenances and other;

3.1.4 'Ground Floor' meant for **Market Facility** consisting of 192 shops including whole sale mandis;

3.1.5 Remaining area of the Ground Floor is meant for accommodating Coffee shop, Porticos on all sides, stair ways, passages, lobbies, lifts, Fire war room etc. attached to **Commercial facility**;

3.1.6 First Floor, Second Floor, Third Floor, Fourth Floor, Fifth Floor and Terrace Floor attached to **Commercial Facility**. The BDA has not constructed any shops or partition walls in First Floor to Fifth Floor which is meant for handing over as – is –where basis to Concessionaire to facilitate build to suit shops, offices and interiors in common areas;

3.2 Handover of Project Facility

3.2.1 BDA has on this day handed over to the Concessionaire on an as-is where-is basis (i.e., with the existing facilities and services), peaceful physical possession of the Project facility which included 'Project Site', 'Parking

Facility', 'Market Facility' and 'Commercial Facility' for Maintenance and Operations of Project facility as per provisions of this Concession Agreement.

3.2.2 The Concessionaire shall have the right to enter upon, occupy and use the Project Facility and make the Project Facility operational, at its cost and expenses, such maintenance and operations in the Project Facility as may be necessary or appropriate to daily maintenance activities and to manage the Project Facility in accordance with the provisions of this Agreement.

3.3 Rights over the Project Facility

The Concessionaire shall have the right to enter upon, occupy and use the Project Facility for the purpose of maintenance of the entire property i.e. 'Project Facility'. The Concessionaire shall have right to collect water charges, electricity charges, levy monthly maintenance fee and collect necessary maintenance charges from all the tenants of the Project Facility including from the vendors of the Market facility. The Concessionaire shall also collect parking charges from all the tenants, individuals, vendors of Market Facility, shoppers, and other persons who use the parking facility.

3.4 Rights over the Commercial Facility

3.4.1 BDA has on this day handed over to the Concessionaire on an as-is where-is basis (i.e., with the existing facilities, services and all appurtenances), peaceful physical possession of the Commercial Facility comprising of car parking facility in Lower Basement Floor and Upper Basement Floor and commercial space in the Ground Floor (remaining area other than 192 shops i.e. 'Market Facility'), First Floor, Second Floor, Third Floor, Fourth Floor, Fifth Floor and Terrace Floor, constructed by Concessioning Authority (BDA) and agreed to

hand over the proposed Multi Level Car Parking facility (Automated) to be developed by BDA in the Project Site upon completion and BDA hereby exclusively grants and authorises the Concessionaire to Operate and manage the Commercial Facility as per the Concession Terms.

3.4.2 Concessionaire shall be entitled to exercise and/ or promote/market to lease, design the 'build to suit retail units/outlets', engineer, decorate, refurbish, modify, demolish, alter or procure, source the retailers, Sub-lease the retail outlets, finance, operate, maintain, manage, enjoy the lease hold rights, powers, benefits, privileges, authorisations, other rights and other entitlements as set forth in this Agreement including the right to collect, retain and appropriate all income, benefits, privileges, usufructs, tariffs, Parking Fees, rentals, other fees and charges in respect of the Commercial Facility and transfer the commercial facility in accordance with the provisions of this Agreement to BDA, the Commercial Facility on its completion as stipulated in this agreement on the Expiry Date or the Termination Date, as the case may be.

3.4.3 Concessionaire shall be entitled to build a variety of facilities in all the floors of the Commercial Facility i.e. shops, show rooms, shopping mall, amusement park, banks, corporate offices, exhibition halls, Coffee shops, food courts, convention centre, alcoholic liquor, and pub/bars, entertainment centres, (multiplex, cinema hall, auditorium), restaurants, food courts, fitness centre, spa, offices, call centres and BPO's / KPO's, training centres, coaching centres, schools, educational institutions, Mini Halls, healthcare institutions (hospitals, research institutions, health tourism, and other health facilities) museum, games complex with video games, bowling alley, snooker/ billiards etc.), commercial parks, SEZ, and / or office space, business centres, etc. and such other activities that are legally permissible and lease/sub-lease the same during the Concession Term.

3.4.4 The Concessionaire shall be entitled to lease, license, sub-lease, assign and / or in any other manner transfer its rights over the Commercial Facility including the right to sub - concession to such entities / person(s) as it may deem fit, and to collect from such entities / persons rent, license fees, user fees, maintenance charges, salvage charges and other amounts during the Concession Period.

3.4.5 The Concessionaire shall collect and appropriate Parking Fees from the users of the Parking Facility during concession period.

3.4.6 The Concessionaire shall be entitled to mortgage the whole or any part of the Commercial Facility for the purpose of securing any loan or financial assistance from banks or financial institutions. Provided however, that the Concessionaire shall be entitled to create such charges / mortgages in respect of the Concessionaire's leasehold interest in the Commercial facility and development rights and interest in the Commercial Facility, as may be required by the banks and / or financial institutions, and BDA shall extend full co-operation to the Concessionaire in this regard. BDA shall not be liable for any financial commitment that may be received by the Concessionaire from any Banks or Financial Institutions and no such liability be fastened on BDA by the Concessionaire whatsoever with respect to the Commercial Facility. However the authority to mortgage shall be restricted to the last date of Concession Period.

3.4.7 The Concessionaire may secure loans or credit limits from Banks and Financial institutions against the income from the Commercial Facilities like

rent, user's fee, parking fee etc., provided that such loans or limits are cleared off fully before the Expiry Date or Termination Date. The Concessionaire shall indemnify BDA against any such liabilities.

3.4.8 The Concessionaire shall be permitted to commercially exploit the Commercial facilities and adapt the same to suit the changing market trends or business needs/ expectancies from time to time so long as such exploitation is not opposed or detrimental to the public good and is also in conformity with applicable laws.

3.4.9 The Concessionaire shall be entitled to exercise discretion in all matters relating to the conceptualization, manner, method and design of Commercial Facility subject to the terms of this Agreement.

3.5 Rights over the Market Facility

The Concessionaire shall have the right to enter upon, occupy common areas of the Market Facility for the purpose of maintenance of the entire Floor area in the Ground Floor i.e. 'Market Facility' and Coffee shop and other services. The Concessionaire shall have right to collect water charges, electricity charges, levy monthly maintenance fee and collect necessary maintenance charges from all the tenants of the Market Facility i.e. from the vendors of the Market facility. BDA shall obtain consent from BBMP to that effect and authorize Concessionaire to collect maintenance charges as part of building maintenance such as housekeeping, providing round the clock electricity, Fire safety and other services including watch and ward.

3.6 Representations of BDA

BDA hereby represents that:

3.6.1 BDA is in possession of the Project Site and entire building constructed therein comprising of Parking Facility, Market Facility and Commercial Facility and all other facilities, services and all appurtenances provided on the Project Site, collectively referred to as "Project Facility". BDA has full right, title and interest therein and in possession of the Project Facility and BDA has full powers to hold and deal with the same consistent, inter alia, with the provisions of this Agreement.

3.6.2 There are no actions, suits or proceedings pending or to it's knowledge threatened against it at law or in equity before any court, any tribunal, any judicial or quasi judicial authorities, statutory authorities or any other authorities, the outcome of which may result in the default or breach of this agreement or which individually or in aggregate may result in any materially of it's liabilities to perform it's obligations under this agreement.

3.6.3 It shall be the duty of BDA to take all steps to protect its title during the Concession Period or any extension thereof.

3.6.4 This Agreement has been executed by BDA after duly fulfilling all legal formalities and adhering to the provisions of its constitution / incorporation documents including rules, regulations and / or byelaws framed there under and that this Agreement constitutes a legal, valid and binding obligation on BDA.

3.6.5 The Concessionaire shall, in respect of the Project Facility, have no liability whatsoever regarding payment of any compensation towards rehabilitation / resettlement from any Persons affected in any manner pursuant to the execution of this Agreement and performance of the terms hereof by the Parties.

3.6.6 Upon Concessionaire paying Concession fee as agreed and performing the covenants in this agreement, BDA shall not at any time during the Term thereof interfere with peaceful exercise of the rights and discharge of the obligations by the Concessionaire in accordance with this Agreement except for routine checks, periodical reviews and inspections.

3.6.7 The Concessionaire, including any Persons claiming through or under the Concessionaire, shall, subject to complying with the terms and conditions of this Agreement, be entitled to remain in peaceful possession and enjoyment of the Project Facility which includes Project Site during the Concession Period. In the event the Concessionaire is obstructed by any Person claiming any right, title or interest in or over the Project Site or the Project Facilities or any part thereof, or in the event of any action being initiated by any Person claiming to have any interest in/charge or the Project Facility and / or any part thereof including any order of injunction, stay, restraint, attachment, distrait, appointment of receiver or liquidator ("Order") being passed in respect of the Project Site or any part thereof or the development commenced thereon pursuant to this Agreement by the Concessionaire, BDA shall diligently defend such claims and proceedings and also keep the Concessionaire indemnified against any consequential loss or damages which the Concessionaire may suffer, on account thereof, as mutually assessed. BDA shall also be obliged to take such remedial action to vacate any such Order to enable the Concessionaire to peacefully commence, re-commence, continue and/or conclude the Project in terms hereof.

3.6.8 BDA reserves it's right to appoint Project Engineer at it's costs.

3.7 Applicable Permits

3.7.1 The BDA shall obtain, at it's own cost, all Applicable Permits, including approvals and mandatory clearances from Fire Force Department, Karnataka Power Transmission Corporation Limited, Bangalore Electricity Supply Company Limited, Bangalore Water Supply & Sewerage Board, Bangalore Telecom, Airport and Telecommunication Authorities, Urban Arts Commission, Karnataka Pollution Control Board, Environmental Authorities, Lift Inspectorate, Electrical Inspectorate and clearances from any statutory bodies which are required under law and shall issue the Occupancy Certificate for Project Facility and also shall provide other clearances if any, required for leasing out the Commercial facility and management of the Project facility envisaged hereunder.

3.7.2 BDA shall fully co-operate, and shall sign and execute all necessary document/s and papers as may be required to enable the Concessionaire to secure Applicable Permits that may be required for the facility management.

ARTICLE 4

4 FACILITY MANAGER,MAINTENANCE STAFF, FACILITY MANAGEMENT COMPANY, MARKETING MANAGER OR MARKETING CONSULTANT, PROJECT ENGINEER OR PROJECT MANAGEMENT CONSULTANT ETC.

4.1 Facility Manager, Maintenance Staff, etc.

(a) The Concessionaire is required to appoint at its cost a qualified Facility Manager for the duration of the Project. The Concessionaire shall ensure that the Facility Manager shall possess the following minimum qualifications:

(i) should be a graduate in civil engineering

(ii) should have managed maintenance of multi-storied building projects

(iii) should be conversant with management techniques including O & M / Annual Maintenance

(b) The Concessionaire shall ensure that adequate maintenance staff well versed with facility management responsibilities such as housekeeping, watch and ward, mechanical, electrical, plumbing, fire services etc. and required administrative staff are appointed by the Concessionaire for proper and efficient management of the Commercial Facility.

4.2 Facility Management Company

The Concessionaire may appoint any Facility management company to handle the maintenance of the Commercial Facility.

4.3 Marketing Manager or Marketing Consultant

The Concessionaire may also appoint marketing manager or marketing consultant/s to handle the marketing and leasing of the Commercial Facility.

4.4 Project Engineer or Project Management Consultant

BDA may appoint a Project Engineer or Project Management Consultant, at it's costs, who will co-ordinate and monitor various activities involved in the maintenance of the Commercial Facility. The Project Engineer shall be responsible to ensure smooth functioning of Facility maintenance by the Concessionaire. The role and scope of services of the Project Management Consultant shall be as specified at Schedule- 6 of this Agreement.

ARTICLE 5

5 CONCESSIONAIRE'S OBLIGATIONS

In addition to and not in derogation or substitution of any of its other obligations under this Agreement, the Concessionaire shall have the following obligations:

5.1 USE OF PROJECT SITE, PROJECT FACILITY, MARKET FACILITY & COMMERCIAL FACILITY :

The Concessionaire shall use the Project Site, Project Facility, Market Facility and Commercial facility for the purposes set out in this Concession Agreement only.

5.2 CONCESSION PAYMENT:

The Concessionaire shall regularly pay the Concession Payment as set out in Schedule-2 herein and shall observe and fulfil each of its obligations and covenants set forth herein.

Concessionaire shall be exempted from making concession payment during extra ordinary circumstances such as occurrence of epidemic, war, legal

impediment, unforeseen situations and force majeure events that may stall the businesses.

5.3 PERFORMANCE SECURITY/ GUARANTEE:

5.3.1 The Concessionaire or member of Concessionaireconsortium shall provide to BDA not later than sixty days (60 days) from the date of signing this agreement an irrevocable bank guarantee for a sum of Rs. 1,00,00,000/- (Rupees One Crore only) ("**Security Deposit**") with the First Party.

5.3.2 The Performance guarantee shall be returned to the Concessionaire on the date of handing over the Project facility to BDA by the Concessionaire.

5.3.3 In the event this Agreement is terminated for any reason whatsoever, the First Party shall, within a period of Thirty days from the date of termination, refund the Performance Security to the Concessionaire.

5.4 Specific Obligations

(a) The Concessionaire shall design, develop the interiors of Commercial Facility, decorate the common areas of Commercial Facility and finance towards the same at its own cost and in accordance with the Technical Proposal **as set out in Schedule-8 and Schedule-9.**

(b) The concessionaire shall Design built to suit retail units, office units etc., Develop, Refurbish, modify, alter etc., advertise, Market, Finance, Lease, Operate and exercise the tenanting, Re-tenanting at its own cost and expense

in accordance the terms of this Concession agreement and Transfer the Commercial Facility to BDA on the date of expiry of Concession Term.

(c) The Concessionaire shall pay the quarterly concession payment to BDA during the period of the concession. Due date shall be 10th day of the 1st Month of the subsequent quarter. The Concessionaire shall increase the Concession Fee at the rate of 5% once every 5 years.

(d) Concessionaire shall be exempted from making concession payment during extra ordinary circumstances such as occurrence of pandemic of any kind war, unforeseen situations and force majeure events that may stall the businesses.

5.5 Financing Arrangement

The Concessionaire shall at its cost, expenses and risk make such financing arrangement as would be necessary to implement the Project and Operation and Management and to meet all of its obligations under this Agreement, in a timely manner without causing any liability or burden to BDA.

5.6 Right to create mortgage in the Project Site

The Concessionaire shall have right to create mortgage rights in relation to Commercial Facility in favour of banks, financial institutions, individuals, Funds, Senior Lenders or trustees so appointed and acting on behalf of the senior lenders for procuring financial assistance for fulfilling it's obligations under this agreement. The right to create mortgage shall be limited to the extent of Concession Period.

5.7 Completion of Internal partitions for retails shops & Office Units

The Concessionaire shall advertise, market, lease and complete construction of internal partition walls and interiors of Commercial Facility as per requirement of the prospective tenants, in accordance with the bye laws, within a period of Twenty (24) months from the date of Commencement of Operation Date.

5.8 Implementation: Facility Management

(a) The Concessionaire shall adhere to the Construction Requirements and intimate BDA and the Project Management Consultant about the completion of construction of internal partitions and refurbishment of retail units, office units and decoration of Common areas to enable the Project Management Consultant to issue Project Completion Certificate.

(b) The Concessionaire may undertake Construction and interior Works by itself or through a Contractor possessing requisite technical, financial and managerial expertise/capability, but in either case, the Concessionaire shall remain solely responsible to meet the Construction Requirements and O&M Requirements.

(c) The Concessionaire shall, before commencement of Commercial Operations date, have the requisite organizational set up and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Facility Management, to liaise with BDA and to be responsible for all necessary exchange of information required pursuant to this Agreement.

(d) For the purposes of determining whether the Construction Works / Interior Works are being undertaken in accordance with the Construction Requirements, the Concessionaire shall with due diligence carry out all necessary and periodical checks in accordance with the Requirements as per National Building Code.

5.9 Operation and Maintenance

5.9.1 Obligations relating to employment of trained personnel:

The Concessionaire shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times properly trained for their respective function.

5.9.2 The Concessionaire shall maintain the Project Facilities in accordance with the O&M Requirements in Schedule- 5.

5.9.3 The Concessionaire shall, by itself or through theOperations & Maintenance Contractor possessing requisite technical, financial and managerial expertise/capability, operate and maintain on their own, the Project Facilities, and Concessionaire shall remain solely responsible to meet the O&M Requirements of their respective facilities.

5.9.4 The BDA and Concessionaire shall, during the Concession Period:

(i) have the requisite organizational set up and designate and appoint suitable officers/ representatives as it may deem appropriate to liaise with each other and to be responsible for all necessary exchange of information required pursuant to this Agreement;

(ii) Concessionaire by itself or through a Contractor be entitled to charge such sums towards maintenance charges from all the occupants of the Project facility (including occupants of Market Facility), at such rate/s as may be decided by the Concessionaire, at their sole and absolute discretion;

5.9.5 For the purposes of determining that the Project Facility is being maintained in accordance with O&M Requirements, the Concessionaire shall with due diligence carry out all necessary and periodical checks in accordance with the requirements and prepare periodical reports and keep it in it's custody. The Concessionaire shall maintain proper record of such checks and the remedial measures taken to cure the defects or deficiencies, if any, indicated in the reports.

5.10 Alterations, Modifications

(a) The Concessionaire shall be at liberty to carry out necessary alterations and/or modifications to the Commercial Facilities, Common Areas, elevations of all sides, parking facility, upgradation of plant and machinery etc. in the Project Facility subject to its adherence to Applicable Law and obtaining prior approvals and Applicable Permits from concerned agencies for such alteration or modification. Provided however that such alteration and/or modification shall not at any time cause any damage to the structure of the Project

Facilities or otherwise adversely affect the safety of the occupants of the Project Facilities.

5.11 Insurance

(a) During Construction

The Concessionaire shall, at its cost and expense, secure and maintain, during the period of construction of internal walls, alterations, modifications, interiors, refurbishment, such insurance as are necessary, including but not limited to the following:

(i) builders' all risk insurance;

(ii) comprehensive third party liability insurance including injury or death to personnel / representatives of Persons who may enter the Project Facility;

(iii) workmen's compensation insurance;

(iv) any other insurance that may be necessary to protect the Concessionaire, its employees and its assets against loss, damage, destruction, business interruption or loss of profit including insurance against all Force Majeure Events that are insurable.

(b) During O&M

The Concessionaire shall at its cost and expense, secure and maintain during the Concession Period, insurance that may be necessary to protect the Concessionaire, its employees and its assets against loss, damage, destruction, business interruption or loss of profit including insurance against all Force Majeure Events that are insurable in relation to the Commercial Facility.

(c) Evidence of Insurance

The Concessionaire shall, provide to BDA as and when BDA may call for the copies of all insurance policies (or appropriate endorsements, certifications or other satisfactory evidence of insurance) obtained by the Concessionaire in accordance with this Agreement.

(d) Validity of Insurance

The Concessionaire shall from time to time promptly pay insurance premium, keep the insurance policies specified above in force throughout the Concession Period, and furnish copies thereof to BDA. The insurance policy shall not be cancelled or terminated unless 60 days' clear notice of cancellation is provided to BDA in writing.

5.12 Environmental Compliance

The Concessionaire shall, ensure that all aspects of the Project Facilities during the Concession Period, as the case may be, and processes adopted in the construction, operation and maintenance thereof shall conform to the laws pertaining to environment, health and safety aspects including, policies and guidelines related thereto, including sewage treatment, solar energy and such other technical service installations.

5.13 General Obligations

The Concessionaire shall at its own cost and expense:

(a) investigate, study, design, renovate, assess demand – supply gap, change the usage of commercial facility as per demand and market, lease, operate and maintain the Commercial Facilities in accordance with the provisions hereof;

(b) obtain all Applicable Permits as required by or under the Applicable Laws and be in compliance thereof at all times during the Concession Period;

(c) comply with Applicable Law governing the operations of Commercial Facilities at all times during the Concession Period;

(d) appoint, supervise, monitor and control as necessary, the activities of Contractors, tenants, lessees, under the respective Agreements;

(e) make efforts to maintain harmony and good business relations among the personnel employed in connection with the performance of its obligations under this Agreement and shall be solely responsible for compliance with all labour laws and solely liable for all possible claims and employment related liabilities of its staff employed in relation with the Commercial Facility and hereby indemnifies BDA against any claims, damages, expenses or losses in this regard and that in no case and shall for no purpose shall BDA be treated as employer in this regard;

(f) make its own arrangements for securing construction materials, spare parts, accessories which are required for maintenance of various installations in the building and observe and fulfil the environmental and other requirements under the Applicable Law and Applicable Permits;

(g) be responsible for all the health, environment and safety aspects of the Project Facility at all times during the Concession Period.

(h) upon receipt of a request thereof, afford access to the Project Facilities to the authorized representatives of BDA for the purpose of ascertaining compliance with the terms, covenants and conditions of this Agreement.

5.14 No Breach of Obligations

The Concessionaire shall not be considered to be in breach of its obligations under this Agreement nor shall it incur or suffer any liability if and to the extent performance of any of its obligations under this Agreement is affected by or on account of any of the following:

i. a Force Majeure Event, subject to Article 7.3;

ii. Closure of the Project Facilities or part thereof with the approval of BDA.

5.15 Consortium Condition

Members of the Consortium shall nominate one member as the lead member (the "Lead Member"), who shall have an equity share holding of at least 35% (thirty five per cent in case of three (3) members of Consortium and shall have at least 51% share holding in the event of two (2) member consortium) of the paid up and subscribed equity of the SPV. Associate Member/s however are permitted to make any changes in share holding structure with respect to their shares.

ARTICLE 6

6 BDA's OBLIGATIONS

In addition to and not in derogation or substitution of any of its other obligations under this Agreement, BDA shall have the following obligations:

6.1 Specific Obligations:

6.1.1 BDA shall deliver physical possession of the Project Facility to the Concessionaire in accordance with Clause 3.1.1 above.

6.1.2 In the event the Concessionaire terminating this Agreement in terms of this agreement, BDA shall, within a period of Twenty One (21) days from the date of termination, pay the following sums to the Concessionaire:

(a) equal to 170% of the aggregate of all costs and expenses incurred by the Concessionaire under this Agreement from the date of this Agreement until the date of termination i.e. Book Value of the capital investments net of depreciation computed on straight line basis as on Termination Date, made by the Concessionaire towards the Project Facilities, as determined by an independent firm of chartered accountants mutually agreed upon and appointed by the Parties for the purpose;

(b) aggregate of the sums paid by the Concessionaire under this Agreement towards Security Deposit and other payments if any;

(c) The Performance Guarantee of Rs. 1,00,00,000/- (Rupees One Crore only) provided by the Concessionaire by way of a Bank Guarantee shall stand cancelled.

(d) Delay in releasing payment within 21 days from the date of termination would carry simple interest at 12% per annum.

6.1.3 BDA shall assist in a timely manner for obtaining such approvals, permissions and authorizations which the Concessionaire may require or is obliged to seek from BDA under this Agreement, in connection with implementation of the Project and the performance of its obligations. Provided, where authorisation for availment of utilities such as power, water, sewerage, telecommunications or any other incidental services/utilities is required, the same shall be provided by BDA in the form as set out in Schedule 4, within three weeks (21 days) from receipt of request from the Concessionaire to make available such authorisation.

6.1.4 BDA will not mortgage whole or any part of the Project site and project facilities thereto for the purpose of securing any facilities or loans or limits from banks or financial institutions until the expiry date of Concession Period.

6.1.5 BDA shall provide the Concessionaire with copies of all documents of title, municipal and other documents including but not limited to constitution documents of BDA, bye-laws, rules and regulations, approvals, permits, sanctions and other documents pertaining to its title and ownership over the Project Land so as to enable the Concessionaire to provide the same to Persons intending to occupy portions of the Commercial Facility.

6.1.6 To enable the Concessionaire to carry out the scope of its activities as contemplated herein, BDA shall empower the Concessionaire or its nominee/s to approach the Town Planning Authority within BDA or Bangalore MahanagaraPalike or such other competent authorities, and get the required permissions and sanctions as desired by the Concessionaire.

6.1.7 BDA shall be responsible to pay property tax together with all related cesses and other municipal and other statutory levies relating to the Project Site and the Project facility if applicable.

6.2 Obligations relating to financing

The Authority, in conformity with any regulations or guidelines that may be notified by the Government or the Reserve Bank of India, as the case may be, hereby permit and enable the Concessionaire to secure financing on such terms as may be agreed upon between the Concessionaire and the entity providing such financing and hereby convey no objection to secure financing;

The Authority undertakes to issue no objection certificate (NOC) to the Concessionaire on such request of the Concessionaire within 30 (thirty) days of receipt of the proposal by the Authority in the event of such NOC is required to secure financing against mortgage of concession rights / lease hold rights.

ARTICLE 7

7 FORCE MAJEURE

7.1 Force Majeure Event

Any of the following events which is beyond the control of the Party claiming to be affected thereby ("Affected Party") and which the Affected Party has been unable to overcome or prevent despite exercise of due care and diligence, and prevents the Affected Party from performing or discharging its obligations under this Agreement, shall constitute Force Majeure Event:

(a) acts of god, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, inundation, volcanic eruption, chemical or radioactive contamination or ionizing radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);

(b) storm, tempest, hurricane, cyclone, thunder or other extreme atmospheric disturbances and/or any other natural calamity;

(c) fire caused by reasons not attributable to the Concessionaire or persons to whom Commercial Facilities have been leased / licensed by the Concessionaire or any of their employees, contractors or agents appointed by the Concessionaire for purposes of the management of Commercial facility or other persons using the facilities;

(d) acts of terrorism or arson or civil strife or mob fury;

(e) riots, industrial disturbances not arising on account of the acts or omissions of the Concessionaire, war, hostilities (whether declared or not), invasion, rebellion, weapon conflict or military actions, civil war, (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, civil commotion or politically motivated sabotage,ionizing radiation, contamination by radioactivity from nuclear fuel, any nuclear waste, radioactive toxic explosion, volcanic eruptions, any failure or delay of a Contractor caused by the events mentioned in this sub-clause;

(f) strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a continuous period of 24 (twenty four) hours and an aggregate period exceeding 7 (seven) days in an Accounting Year,

(g) Any lawful action of a Government Agency or Public Authority having Material Adverse Effect including but not limited to

i. Acts of expropriation, compulsory acquisition or takeover by any Government Agency or Public Authority of the Project Facilities/ site or any part thereof; and

ii. Any unlawful, unauthorised or without jurisdiction refusal to issue or to renew or the revocation of any Applicable licenses/ approvals, reasons other than Concessionaire's breach or failure in complying with the Project Requirements, Applicable Laws, Applicable licenses and approvals, any judgement or order of court, a Governmental Agency, or any other authority or of any contract by which the Concessionaire or the Contractor as the case may be is bound.

iii. any judgment or order of any court of competent jurisdiction or statutory authority made against the Concessionaire in any proceedings for reasons other than (i) failure of the Concessionaire to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority;

iv. The discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or

v. any political or economic upheaval, disturbance, movement, struggle or similar occurrence which could not have been anticipated or foreseen by a prudent person and which causes the construction or operation of the Project Facility to be financially unviable or otherwise not feasible;

vi. industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty four) hours and exceeding an aggregate period of 7 (seven) days in an Accounting Year;

vii. failure of the Authority to permit the Concessionaire to continue its Construction Works, with or without modifications, in the event of

stoppage of such works after discovery of any geological or archaeological finds or for any other reason;

(h) Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 34 and its effect, in financial terms, exceeds the sum specified in Clause 34.1;

(i) Compulsory acquisition in national interest or expropriation of any Project Assets or rights of the Concessionaire or of the Contractors;

(j) unlawful or unauthorized or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, license, permit, authorization, no objection certificate, consent, approval or exemption required by the Concessionaire or any of the Contractors to perform their respective obligations under this Agreement and the Project Agreements; provided that such delay, modification, denial, refusal or revocation did not result from the Concessionaire's or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, license, authorization, no objection certificate, exemption, consent, approval or permit;

(k) Any event or circumstances of a nature analogous to any of the foregoing.

7.2 Obligations of Parties

(a) As soon as practicable and in any case within 7 (Seven) days from the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Affected Party shall notify the other Party and Project Management Consultant, as the case may be, of the same setting out, inter alia, the following in reasonable detail:

(i) the nature and extent of the Force Majeure Event;

(ii) the estimated Force Majeure Period, if possible;

(iii) the nature of and the extent to which, performance of any of its obligations under this Agreement is affected by the Force Majeure Event;

(iv) any other relevant information concerning the Force Majeure Event.

(b) As soon as practicable and in any case within 5 days of notification by the Affected Party in accordance with the preceding sub-article 7.2 (a), the Parties along with the Project Management Consultant and Project Manager, as the case may be shall meet and hold discussions in good faith and where necessary conduct physical inspection/survey of the Project Facility and other Facilities in order to:

(v) assess the impact of the underlying Force Majeure Event,

(vi) to determine the likely duration of Force Majeure Period and,

(vii) to formulate damage mitigation measures and steps to be undertaken by the Parties for resumption of obligations, the performance of which shall have been affected by the underlying Force Majeure Event.

(viii) Assess at reasonable intervals the impact of the Force Majeure Event

7.3 Performance of Obligations

7.3.1 Notwithstanding the joint action of the parties as envisaged above, if the Affected Party is wholly or partially disabled from performing any of its

obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such obligations to the extent it is unable to perform the same on account of such Force Majeure Event and Concessionaire is deemed to have been granted an extension of Concession Term to the extent of the Force Majeure Period.

Duty to report Force Majeure Event:

7.3.2 Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

i. the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article with evidence in support thereof;
ii. the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement;
iii. the Force Majeure Period;
iv. Any other information relevant to the Affected Party's claim;

(a) the excuse from performance shall be of no longer duration than is necessitated by the Force Majeure Event;

(b) the Affected Party has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to the Project Facilities as a result of the Force Majeure Event and to restore the Project Facilities, in accordance with Good Industry Practice;

(c) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event;

(d) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party written notice to that effect and shall promptly resume performance of its obligations hereunder, the non issue of such notice being no excuse for any delay for resuming such performance;

(e) the Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with this Agreement; provided, however, that in the event, the Concessionaire or persons who have derived a right to use the Project Facilities through them are unable to use and enjoy the same, no concession payment shall be due or payable for the period of continuance of the Force Majeure Event.

(f) any insurance proceeds received shall be entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure Event, in accordance with Good Industry Practice.

7.3.3 For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than fortnightly) reports containing information, and such other information as the other Party may reasonably request the Affected Party to provide.

7.4 Effect of Force Majeure Event on the Concession

7.4.1 Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the period set forth for fulfilment of Conditions Precedent and for achieving

Financial Close shall be extended by a period equal in length to the duration of the Force Majeure Event.

7.4.2 At any time after the Appointed Date, if any Force Majeure Event occurs:

(a) before COD, the Construction Period and the dates set forth in the Project Completion Schedule shall be extended by a period equal in length to the duration for which such Force Majeure Event subsists; or

(b) After COD, during the subsistence of such Force Majeure Event, the Concession Period shall be extended by a period equal in length to the period during which the Concessionaire was prevented from collection of fee on account thereof.

(c) Allocation of costs arising out of Force Majeure

7.4.3 Upon occurrence of a Force Majeure Event after the Appointed Date, the costs incurred and attributable to such event and directly relating to the Project (the "Force Majeure Costs") shall be allocated and paid as follows:

(a) all Force Majeure Costs not exceeding the Insurance Cover, shall be borne by the Concessionaire, and to the extent Force Majeure Costs exceed such Insurance Cover, shall be reimbursed by the Authority to the Concessionaire.

For the avoidance of doubt, Force Majeure Costs may include interest payments on Debt Due, O&M Expenses, any increase in the cost of Construction Works on account of inflation and all other costs directly attributable to the Force Majeure Event, but shall not include any costs which are expressly covered under any provision of this Agreement or debt repayment obligations.

7.4.4 Save and except as expressly provided in this Article, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

7.5 Termination due to Force Majeure Event

a. Termination

(i) If a Force Majeure Event, is an event described under Sub-articles 7.1(a) to 7.1(k), continues or is in the reasonable judgement of the Parties likely to continue beyond a period of 2 (two) years, the Parties may mutually decide to terminate this Agreement or continue this Agreement on the same terms envisaged under this Concessionaire Agreement or mutually agreed revised terms. If the Parties are unable to reach an agreement in this regard, the Affected Party shall after the expiry of the said period of 2 (two) years, be entitled to terminate this Agreement.

(ii) If the Force Majeure Event is an event described in 7.1 and the Concessionaire having exhausted the remedies available to him under the Applicable Laws, has been unable to secure the remedy, the Concessionaire shall be entitled to terminate this Agreement.

Provided that the Parties may, by mutual agreement, decide to continue this Agreement on revised terms or to terminate this Agreement, if the Force Majeure Event is likely to subsist for a period exceeding 2 (two)years.

b. Termination Notice

If either Party, having become entitled to do so, decides to terminate this Agreement pursuant to the preceding sub-article 7.6(a) (i) or (a) (ii), it shall issue Termination Notice setting out ;

(i) in sufficient detail the Force Majeure Event;

(ii) the Termination Date which shall be a date occurring not earlier than 30 days from the date of Termination Notice;

(iii) the estimated lossess / damages suffered and Termination Payment including the details of computation thereof and;

(iv) any other relevant information.

c. Obligation of Parties

Following issue of Termination Notice by either Party, the Parties shall promptly take all such steps as may be necessary or required to ensure that;

(i) the Termination Payment, if any, payable by BDA in accordance with the following sub-article (d) is paid to the Concessionaire on the Termination Date and

(ii) the Project Facilities are handed back to BDA by the Concessionaire on the Termination Date free from all Encumbrances.

d. Termination Payment

Upon Termination of this Agreement due to a Force Majeure Event described under Sub-articles 7.1(a) to 7.1(k), the Concessionaire shall receive equal to 170% of the Book Value of the capital investments net of depreciation computed on straight line basis as on Termination Date, made by the Concessionaire towards the Project Facilities, as determined by an independent firm of chartered accountants mutually agreed upon and appointed by the Parties for the purpose less the proceeds of any amounts under insurance policies. BDA shall also release the Performance Security.

7.6 Liability for other losses, damages etc.

Save and except as expressly provided in this Article, neither Party hereto shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event.

ARTICLE 8

8 EVENTS OF DEFAULT AND TERMINATION

8.1 Events of Default

Event of Default means either Concessionaire Event of Default or BDA Event of Default or both as the context may admit or require.

(a) Concessionaire Event of Default

Any of the following events shall constitute an event of default by the Concessionaire ("Concessionaire Event of Default") unless such event has occurred as a result of a Force Majeure or BDA Event of Default.

(i) The Concessionaire has failed to make the Concession Payment on Due Dates for Six (6) consecutive quarters.

(ii) A resolution for voluntary winding up has been passed by the shareholders of the Concessionaire;

(iii) Any petition for winding up of the Concessionaire has been admitted and liquidator has been appointed or the Concessionaire has been ordered to be wound up by Court of competent jurisdiction, except for the purpose of amalgamation or reconstruction with the prior consent of BDA, provided that, as part of such amalgamation or reconstruction and the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Concessionaire under this Agreement.

(iv) The Concessionaire has abandoned the Project Facilities;

(v) The Concessionaire has unlawfully repudiated this Agreement.

(b) BDA Event of Default

Any of the following events shall constitute an event of default by BDA ("BDA Event of Default"), when not caused by a Concessionaire Event of Default:

(i) BDA fails to handover the Project facility in terms hereof.

(ii) BDA withholds, without reasonable cause, the Project Completion Certificate beyond a period of 30 days from the completion of construction works relating to decoration of common areas and construction of internal partitions in the Commercial Facility.

(iii) BDA has unlawfully repudiated this Agreement.

(iv) Any proceeding to wind up / close / conclude operations / activities of Lessor has been initiated either voluntarily or by any competent authority.

(v) BDA has withheld or delayed grant of any approval or permission which the Concessionaire is obliged to seek from BDA under this Agreement, and thereby caused or likely to cause Material Adverse Effect

(vi) Any representation made or warranty given by BDA under this Agreement is found to be false;

8.2 Termination due to Event of Default

(a) Termination for Concessionaire Event of Default

(i) Without prejudice to any other right or remedy which BDA may have in respect thereof under this Agreement, upon the occurrence of a Concessionaire Event of Default, BDA may terminate this Agreement in the manner as set out under Clause 8.1(a).

(ii) If BDA decides to terminate this Agreement pursuant to the preceding clause (i), it shall in the first instance issue Preliminary Notice to the Concessionaire. Within sixty (60) days of receipt of the Preliminary Notice, the Concessionaire shall submit to BDA in sufficient detail, the manner in which it proposes to cure the underlying Event of Default (the "Concessionaire's Proposal to Rectify"). In case of non submission of the Concessionaire's Proposal to Rectify within the said period of 60 days, BDA shall be entitled to terminate this Agreement by issuing Termination Notice, and to appropriate the Performance Security, if subsisting.

(iii) If the Concessionaire's Proposal to Rectify is submitted within the period stipulated therefore, the Concessionaire shall have further period of 60 days or such further period as may be mutually agreed upon to remedy/ cure the underlying Event of Default. If, however the Concessionaire fails to remedy/cure the underlying Event of

Default within such further period allowed, BDA shall be entitled to terminate this Agreement, by issue of Termination Notice and to appropriate the Performance Security if subsisting.

(b) Termination for BDA Event of Default

(i) Without prejudice to any other right or remedy which the Concessionaire may have in respect thereof under this Agreement, upon the occurrence of BDA Event of Default, the Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.

(ii) If the Concessionaire decides to terminate this Agreement pursuant to preceding clause (i) it shall in the first instance issue Preliminary Notice to BDA. Within 60 days of receipt of Preliminary Notice, BDA shall forward to the Concessionaire its proposal to remedy/ cure the underlying Event of Default (the "BDA Proposal to Rectify"). In case of non submission of BDA Proposal to rectify within the period stipulated therefore, Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.

(iii) If BDA Proposal to Rectify is forwarded to the Concessionaire within the period stipulated therefore, BDA shall have further period of 60 days or such further period as may be mutually agreed upon to remedy/ cure the underlying Event of Default. If, however BDA fails to remedy/ cure the underlying Event of Default within such further period allowed, the Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.

(c) Termination Notice

If a Party having become entitled to do so decides to terminate this Agreement pursuant to the preceding sub article (a) or (b), it shall issue Termination Notice setting out:

(i) in sufficient detail the underlying Event of Default;

(ii) the Termination Date which shall be a date occurring not earlier than 60 days from the date of Termination Notice;

(iii) the estimated termination payment including the details of computation thereof; and,

(iv) any other relevant information.

(d) Obligation of Parties

Following issue of Termination Notice by either Party, the Parties shall promptly take all such steps as may be necessary or required to ensure that;

(i) until Termination the Parties shall, to the fullest extent possible, discharge their respective obligations so as to maintain the continued operation of the Project Facilities,

(ii) the termination payment, if any, payable by BDA in accordance with the following sub-article(f) is paid to the Concessionaire within a period of 21 days from the Termination Date and

(iii) the Project Facility is handed over to BDA by the Concessionaire within a period of 120 days fromthe Termination Date

(e) Substitution of Concessionaire

At any time during the period of Termination Notice, the Lenders' Representative, on behalf of Senior Lenders, shall be entitled to substitute the Concessionaire under and in accordance with the Substitution Agreement, and upon receipt of notice there under from the Lenders' Representative, the Authority shall withhold Termination for a period not exceeding 9 (nine) months from the date of Notice, and any extension thereof, for enabling the Lenders' Representative to exercise its rights of substitution on behalf of Senior Lenders.

(f) Withdrawal of Termination Notice

Notwithstanding anything inconsistent contained in this Agreement, if the Party who has been served with the Termination Notice cures the underlying Event of Default to the satisfaction of the other Party at any time before the Termination Date, the Termination Notice shall stand cancelled provided that the Party in breach shall compensate the other Party for any direct loss/ damage occasioned by the Event of Default which caused the issue of Termination Notice.

(f) Termination Payments

i. Upon Termination of this Agreement on account of Concessionaire's Event of Default, BDA shall be entitled to appropriate the Performance Security.

ii. Upon Termination of this Agreement on account of BDA Event of Default, the Concessionaire shall be entitled to receive from BDA, the termination payment equal to 170% of the Book Value of the capital investments net of depreciation computed on straight line basis as on Termination Date, made by the Concessionaire towards the Project Facilities, as determined by an independent firm of chartered accountants mutually agreed upon and appointed by the Parties for the purpose. BDA shall also release the Performance Security.

iii. Termination Payment shall become due and payable to the Concessionaire on the date on which the Concession Agreement is terminated and in the event of any delay, the Authority shall pay monthly interest at 12% (twelve per cent) on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 21 (twenty one) days. For the avoidance of doubt, it is expressly agreed that Termination Payment shall constitute full discharge by the Authority of its payment obligations in respect thereof hereunder.

iv. The Concessionaire expressly agrees that Termination Payment under this Article 31 shall constitute a full and final settlement of all claims of

the Concessionaire on account of Termination of this Agreement for any reason whatsoever and that the Concessionaire or any shareholder thereof shall not have any further right or claim under any law, treaty, convention, contract or otherwise.

8.3 Accrued Rights of Parties

Notwithstanding anything to the contrary contained in this Agreement, Termination pursuant to any of the provisions of this Agreement shall be without prejudice to accrued rights of either Party including its right to claim and recover damages and other rights and remedies which it may have in law or contract. The rights and obligations of either Party under this Agreement, including without limitation those relating to the termination payment, shall survive the Termination but only to the extent such survival is necessary for giving effect to such rights and obligations.

ARTICLE 9

9 HANDBACK OF PROJECT FACILITIES

9.1 Ownership

Without prejudice and subject to the concession, the ownership of the Commercial Facility, including all improvements made therein by the Concessionaire, shall vest with the Concessionaire during the Concession period and immediately on the expiry of the concession period or on sooner termination of the agreement in the manner provided elsewhere in this agreement, the ownership of the Commercial Facility and all improvements thereon shall, subject to termination payments and any other payment to the Concessionaire as stipulated herein be transferred to BDA by the Concessionaire.

9.2 Concessionaire's Obligations

(a) Upon the expiry of the Concession Period by efflux of time, the Concessionaire shall, hand over vacant and peaceful possession of the Project Facility to BDA free of cost BDA will not entertain any liability in this account.

9.3 BDA's Obligations

BDA shall, subject to BDA's right to deduct amounts towards;

(i) any outstanding dues, which may have accrued in respect of the Commercial facility during the Concession Period

duly discharge and release to the Concessionaire the Performance Security within 3 months from the Expiry Date.

ARTICLE 10

10 DISPUTE RESOLUTION

10.1 Amicable Resolution

(a) Any dispute, difference or controversy of whatever nature between the Parties, howsoever arising, out of or in relation to any aspect of this Agreement (the "Dispute") shall in the first instance be attempted to be resolved amicably in accordance with the procedure set forth in sub-article (b) below.

(b) Two senior representatives of the parties shall meet at the earliest mutual convenience and in any event within 15 days to discuss and attempt to amicably resolve the Dispute. If the Dispute is not amicably settled within 15 (fifteen) days of such meeting between the two, either Party may refer the Dispute to arbitration in accordance with the provisions of Article 10.2 below.

10.2 Arbitration

(a) Procedure

Subject to the provisions of Article 10.1, any Dispute which is not resolved amicably shall be finally resolved by arbitration under the Arbitration Act. The arbitration shall be by a panel of three arbitrators, one to be appointed by each Party and the third to be nominated by the two arbitrators appointed by the Parties.

(b) Place of Arbitration

The place of arbitration shall be Bangalore city.

(c) English Language

The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and awards shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings.

(d) Performance during Arbitration

Pending the submission of and/or decision on a Dispute and until the arbitral award is pronounced, the Parties shall continue to perform their

respective obligations under this Agreement without prejudice to a final adjustment in accordance with such award.

ARTICLE 11

11 REPRESENTATIONS AND WARRANTIES

11.1 Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to BDA that:

(a) it is duly organised, validly existing and in good standing under the laws of India;

(b) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;

(c) it has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorise the execution, delivery and performance of this Agreement;

(d) it has the capacity to undertake the Project;

(e) this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;

(f) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Concessionaire's Memorandum and Articles of Association or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;

(g) there are no actions, suits, proceedings or investigations pending or to the Concessionaire's knowledge threatened against it at law or in equity before any court or before any other judicial, quasi judicial or other authority, the outcome of which may constitute Concessionaire Event of Default or which individually or in the aggregate may result in Material Adverse Effect;

(h) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Agency which may result in Material Adverse Effect;

(i) it has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have Material Adverse Effect;

(j) subject to receipt by the Concessionaire from BDA of any amount due under any of the provisions of this Agreement, in the manner and to the extent provided for under the applicable provisions of this Agreement all rights and interests of the Concessionaire in and to the Commercial Facility shall pass to and vest in BDA on the Termination Date free and clear of all Encumbrances, without any further act or deed on the part of the Concessionaire or BDA;

(k) no representation or warranty by the Concessionaire contained herein or in any other document furnished by it to BDA or to any Government Agency in relation to Applicable Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;

(l) Without prejudice to any express provision contained in this Agreement, the Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has after a complete and careful examination made an independent evaluation of the Project, and the information provided by BDA, and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by the Concessionaire in the course of performance of its obligations hereunder.

11.2 Representations and Warranties of BDA

BDA represents and warrants to the Concessionaire that:

(a) BDA has full power and authority to grant the Concession and has executed this Agreement in accordance with the provisions of its constitute documents and Rules, Regulations and Byelaws framed there under;

(b) BDA has taken all necessary action to authorise the execution, delivery and performance of this Agreement;

(c) This Agreement constitutes BDA's legal, valid and binding obligation enforceable against it in accordance with the terms hereof;

(d) There are no suits or other legal proceedings pending or threatened against BDA in respect of the Project Facilities or the Commercial facility.

(e) The execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of BDA's constitution documents, rules, regulations and byelaws framed there under or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;

(f) It has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Agency which may result in Material Adverse Effect;

(g) It has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have Material Adverse Effect;

(h) it is duly organised, validly existing and in good standing under Applicable laws;

(i) BDA has not entered into any similar Agreement or Arrangement with any third Party;

(j) no representation or warranty by BDA contained herein or in any other document furnished by it to the Concessionaire or to any Government Agency in relation to Applicable Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;

11.3 Obligation to Notify Change

In the event that any of the representations or warranties made/given by a Party ceases to be true or stands changed, the Party who had made such representation or given such warranty shall promptly notify the other of the same.

ARTICLE 12

12 MISCELLANEOUS

12.1 Assignment and Charges

(a) The Concessionaire shall be entitled to assign or lease or sub-lease all or any of its rights and obligations in favour of any Person without the prior consent of BDA.

(b) The Concessionaire shall be entitled to:

(i) The mortgage of Leasehold rights and/or Concessionaire rights of the Concessionaire, revenue and receivables as security for indebtedness, in favour of the Lenders and working capital providers for the Project;

(ii) assignment of Concessionaire's rights and benefits under this Agreement to or in favour of the Lenders as security for financial assistance provided by them.

(iii) Leases/ Licenses of Commercial Facility during the Concession Period

(iv) To assign, lease, sub-lease, mortgage or alienate the lease hold rights, Concessionaire rights and interests either in full or in part in respect of the Commercial facility to any person/ company / firm / body of individuals / trusts / financial institutions etc. as it

may desire from time to time on such conditions as it may deem fit.

12.2 Interest

Any sum which becomes payable other than concession payment under any of the clauses of this Agreement by one Party to the other Party shall, if the same be not paid within the time allowed for payment thereof, shall be deemed to be a debt owed by the Party liable to pay to the Party entitled to receive the same. Such sum shall until payment thereof carry interest at SBI PLR plus 2% per annum from the due date for payment thereof until the same is paid to or otherwise realised by the Party entitled to the same.

Provided the stipulation regarding interest for delayed payments contained in this Article 13.2 shall neither be deemed nor construed to authorise any delay in payment of any amount due by a Party nor be deemed or construed to be a waiver of the underlying breach of payment obligations.

12.3 Governing Law and Jurisdiction

This Agreement shall be governed by the laws of India. The Courts at Bangalore city shall have exclusive jurisdiction over all matters arising out of or relating to this Agreement to the exclusion of all other courts in India.

12.4 Waiver

(a) Waiver by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:

(i) Shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this agreement;

(ii) Shall not be effective unless it is in writing and executed by a duly authorised representative of such party; and

(iii) shall not affect the validity or enforceability of this Agreement in any manner.

(b) Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation hereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver/breach of any terms, conditions or provisions of this Agreement.

12.5 Survival

Termination of this Agreement

(a) shall not relieve the Concessionaire or BDA of any obligations already incurred hereunder which expressly or by implication survives Termination hereof, and

(b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either

Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the Termination Date

12.6 Amendments

This Agreement and the Schedules together constitute a complete and exclusive understanding of the terms of the Agreement between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless agreed to by all the Parties hereto and evidenced in writing.

12.7 Notices

Unless otherwise stated, notices to be given under this Agreement including but not limited to a notice of waiver of any term, breach of any term of this Agreement and termination of this Agreement, shall be in writing and shall be given by hand delivery, recognised courier, or registered post with acknowledgement and delivered or transmitted to the Parties at their respective addresses set forth below:

If to BDA:

The Executive Engineer,
Markets Division,
Bangalore Development Authority,
T. Chowdaiah Road,

Kumara Park West,
Bangalore - 560020

If to the Concessionaire:

.....

.....

……

……

.....

Or such other address, as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered, when delivered by hand, by recognised courier or by registered post at that address.

12.8 Severability

If for any reason whatsoever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties shall negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable.

Provided failure to agree upon any such provisions shall not be subject to dispute resolution under this Agreement or otherwise.

12.9 No Partnership

Nothing contained in this Agreement shall be construed or interpreted as constituting a partnership between the Parties.

12.10 Language

All notices required to be given under this Agreement and all communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

12.11 Exclusion of Implied Warranties etc.

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties and any representation by any Party not contained in a binding legal agreement executed by the Parties.

12.12 Counterparts

This Agreement may be executed in two counterparts, each of which when executed and delivered shall constitute an original of this Agreement but shall together constitute one and only the Agreement.

IN WITNESS WHEREOF THE, PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED SEALED AND DELIVERED

For and on behalf of Lessor (BDA) by -

Executive Engineer

In the presence of :

1)

2)

For and on behalf of Lessee by-

1) For .....

Designation

2) .....

3) For .....

Designation

In the presence of :

1)

2)

Article 13

SCHEDULE 1

PROJECT SITE

"Project Site" measuring about 6522.07 square meters situated in Survey Nos. 1711, 1712 and Part of 1715 at Malleswaram, Sampige Road, Malleswaram West Zone, Kadu Malleswara Ward, Ward No.65, Bengaluru, known as '**Malleswaram Market**' ;

PROJECT FACILITY

'Project Facility' comprises of entire building constructed in 'Project Site' measuring about 6522.07 square meters of land area consisting of 'Parking Facility' in two basement floors, 'Automated Parking Facility', 'Market Facility' (192 shops in Ground Floor), 'Commercial Facility' in remaining area of Ground Floor (apart from 192 shops designated for Market Facility), First Floor, Second Floor, Third Floor, Fourth Floor, Fifth Floor and Terrace Floor, including common areas in the Project facility such as passages, Ramps, Drive ways, stair ways, landscaping areas, Coffee Shoppe, Lobbies, Porticos, Grand steps, security out posts, police out post, in Ground Floor, sump tanks, over head tanks, Lifts, Escalators, HVAC installations, Fire service

installations, electric Transformers, Generators, and other Services, and all appurtenances,Rain water charging pits, Compound walls, Entry / Exit gates, security accommodation, Fire war room, toilets etc.;

COMMERCIALFACILITY

'Commercial Facility" comprises of the commercial space and car parking space developed on the Project Site consisting of Lower Basement Floor, Upper Basement Floor, remaining portion of Ground Floor area earmarked for Coffee shop and other facilities (other than 192 shops i.e. 'Market Facility'), First Floor, Second Floor, Third Floor, Fourth Floor, Fifth Floor and Terrace Floor and proposed Multi Level Car Parking facility to be established by the Concessioning Authority, facilities, services and all appurtenances, any other asset comprised therein.

MARKETFACILITY

Market Facility in Ground Floor consisting of 192 shops including whole sale mandis other than proposed Coffee shop and Fire War room, Security out post, Police out post, Landscape area around the building and other facilities.

Article 14

SCHEDULE 2

PAYMENT SCHEDULE

Due date shall be 10th day of the 1st Month of the subsequent quarter:

Quarter No.	Quarterly Concession Payment (Amounts in Rupees) from the Commercial Operation Date	
	In Figures	In Words

Article 15

SCHEDULE 3

FORMAT FOR LETTER OF AUTHORISATION

(To be given on BDA letterhead)

To whomsoever it may Concern

This is to confirm that the Possession of the Property i.e. **'Project Facility'** having total built up area of about 24,978 square meters of entire building constructed in 'Project Site' measuring about 6522.07 square meters of land area consisting of 'Parking Facility' in two basement floors, 'Automated Parking Facility', 'Market Facility' (192 shops in Ground Floor), 'Commercial Facility' in remaining area of Ground Floor (apart from 192 shops designated for Market Facility), First Floor, Second Floor, Third Floor, Fourth Floor, Fifth Floor and Terrace Floor, including common areas in the Project facility such as passages, Ramps, Drive ways, stair ways, landscaping areas, Coffee Shoppe, Lobbies, Porticos, Grand steps, security out posts, police out post, in Ground Floor, sump tanks, over head tanks, Lifts, Escalators, HVAC installations, Fire service installations, electric Transformers, Generators, and other Services, and all appurtenances,Rain water charging pits, Compound walls, Entry / Exit gates, security accommodation, Fire war room, toilets etc., has been handed over to M/S ..... (Lead Member) and ..... (Associate member) for Design, Market, Operate, Lease and transfer pursuant to the Concession Agreement dated ....., entered into between the BDA and M/S ....., and the Consortium comprising of M/s. .... (Lead Member) and ..... (Associate member).

In terms of the said Agreement, the Concessionaire is authorised to occupy the said Project Facility and carry out all activities authorised by the said Agreement, and for that purpose, to apply for and obtain all approvals, licenses and permits, required in connection with operations of the retail space and carry out operation and management of the said Project Facility and to avail the utilities such as additional power, water and any other incidental utilities or services required in connection therewith.

Yours faithfully,

For, Bangalore Development Authority.

Executive Engineer

We confirm that we have taken possession

For, The Concessionaire

Authorized Representative

Article 16

SCHEDULE 4

OPERATION & MAINTENANCE AND FACILTY MANAGEMENT REQUIREMENTS

1. General

The Concessionaire shall observe that the Project Facility including Commercial Facilities meet the requirements set out in this Schedule.

2. Layout

a. Access to site

Access to the Project Facility shall be provided such that vehicular entry / exit from the site does not affect the flow of traffic/ cause congestion on the roads.

b. Safety aspects

All the safety aspects set forth by the Authorities sanctioning the building plan should be practiced.

c. Parking Facility

The Concessionaire shall maintain the Parking Facility with four – wheeler and two – wheeler Parking Spaces provided in the Project Facility in accordance with the provisions of prevailing the Bruhat Bangalore MahanagaraPalike Building Byelaws and other Applicable Laws and shall collect parking fee from users.

3. Retail / office space Construction Requirements

3.1 Codes and Standards

The codes and standards applicable for the design of the Commercial Facilities are:

(i) Central Public Works Department Specifications (CPWD): Vol. I to VI;

(ii) Bureau of Indian Standards (BIS); and

(iii) National Building Codes (NBC)

(iv) CPWD Specifications for fire fighting and fire alarm systems

(v) Any other standard proposed by the Concessionaire and approved by Project Management Consultant.

The above codes shall include policy circulars, guidelines and special publications, issued in respect thereof from time to time and shall incorporate all amendments and/or modifications to such codes and standards which are available to public.

3.2 Toilets & Drinking Water

The Concessionaire shall provide proper access to toilets for men and women within the Commercial Facility as per Applicable Laws. Drinking water facilities shall also be set up in the Commercial Facility as per requirements.

3.3 Fire Fighting System

The Concessionaire shall implement a comprehensive fire fighting system in accordance with CPWD and NBC during the management of Commercial Facility.

4. Before Commencement of Commercial Operations

a. Prior to commencement of any construction, furnishing and other activity relating to retail shops, office spaces, operations and maintenance of Commercial facility, the Concessionaire shall finalise an implementation plan. The Implementation Plan shall, inter alia, include:

   i. A detailed schedule of implementation for putting up and operationalising the Commercial Facilities covering all aspects of the Facility management and implementation.

   ii. Manpower deployment plan, including the designation of key personnel for the maintenance, management, supervision, watch and ward, housekeeping etc. of all operations and maintenance activities.

b. A broad method statement for key operations such as safety aspects including Fire Safety, security, housekeeping, annual maintenance of equipments and machineries installed in the Project Facility, maintenance of the Commercial Facility including other assets installed at premises;

c. Prior to commencement of commercial activities of any of the portion of the Commercial Facilities, the Concessionaire shall ensure from it's tenants:

   (i) Obtain all such Applicable Permits as are necessary to commence respective businesses;

5. During Operation

5.1 The Concessionaire shall:

(i) Ensure that the Commercial Facilities operated with minimal inconvenience to the general public, shoppers using the passages and provide detours wherever required;

(ii) Ensure that no material, salvage etc. is placed on passages, stair ways, so as to interrupt the movement of shoppers or pedestrian circulation.

(iii) Take necessary precautions to avoid accidents and respond to Emergency as quickly as possible;

(iv) Take precautions to avoid inconvenience to, damage to, destruction of or disturbance to any third party rights and properties;

(v) be in compliance with the Applicable Laws and Applicable Permits obtained for the Project;

(vi) Adhere to the Implementation Plan; and

(vii) Deploy adequate number of qualified and competent personnel having relevant experience and skills for operation and maintenance of the Commercial Facility.

5.2 Operation of Common facilities such as STP, mechanical parking facility, machineries and it's annual maintenance

a. The Concessionaire shall be responsible for:

(i) Operation and maintenance of common facilities such as STP, Mechanical parking facility, pumps installed in various places, HVAC equipment, cameras, Lifts, Escalators and other assets installed for the purpose of running the Project Facility;

(ii) the promptness in maintenance of all the plants, equipment and machineries;

(iii) the provision of all necessary instruments, appliances and labor in connection with handling of the foregoing responsibilities;

b. The checking of any maintenance activities of various assets within Project Facility by Concessioning Authority shall not in any way relieve the Concessionaire of his responsibility for the maintenance thereof and the Concessionaire shall carefully protect and preserve all teh equipment and machineries and other materials installed in the Project Facility as per reasonable and general practice.

5.3 Checks

Inspections would be conducted if necessary in the Project Facility to check the operations being done as per normal maintenance Standards.

5.4 The Concessionaire shall mobilise adequate numbers of staff to ensure adherence to the Implementation Plan.

Article 17

SCHEDULE 5

O&M REQUIREMENTS

1. General

a. The Concessionaire shall comply with the O&M Requirements of Project Facility as set out in this Schedule.

b. In the planning and implementation of all works and functions associated with the operation and maintenance of the Project Facilities, the Concessionaire shall take all such actions and do all such things (including without limitation, organising itself, adopting measures and standards, executing procedures including inspection procedures, and engaging agencies) in such manner, as will:

(i) Ensure the safety of personnel deployed on and users of the Facilities or part thereof;

(ii) Keep the Project Facilities from undue deterioration and wear;

c. During the Concession Period, the Concessionaire shall ensure that:

(i) Project Facility is kept free from undue deterioration and undue wear;

(ii) applicable and adequate safety measures are taken;

(iii) adverse effects on the environment and to the tenants and occupiers of property and/or land in the vicinity of the Project Facilities, due to any of its actions, is minimised;

(iv) any situation which has arisen or likely to arise on account of any accident or other emergency is responded to as quickly as possible and its adverse effects controlled/minimised;

(v) disturbance or damage or destruction to property of third party by operations of the Project Facilities is controlled/minimised;

(vi) a complaint register to record grievances of any member of the public in relation to the operations and maintenance of the Project Facilities is duly maintained;

(vii) all materials used in the maintenance, repair and replacement of any of the assets of the Facilities shall meet the standard requirements.

(viii) the personnel assigned by the Concessionaire have the requisite qualifications and experience and are given the training necessary to enable the Concessionaire meet the O & M Requirements.

2. Maintenance Requirements

A. Routine Maintenance Activities

(a) In order to ensure smooth and uninterrupted use of the Project Facilities routine maintenance of the Project Facilities shall include but not be limited to:

i. repairs to equipment, pavement, building and other civil works, interiors which are part of the Project Facilities;

ii. replacement of equipment/consumables,

iii. maintenance of the Project Facility in accordance with Good Industry Practice;

iv. keeping the Project Facilities in a clean, tidy and orderly condition free of litter and debris;

v. removing and disposing of in accordance with all Applicable Laws and Applicable Permits, all rubbish, debris, etc. including any and all equipment, supplies, materials and wastes brought or produced by the Concessionaire;

vi. taking all practical measures to prevent damage to the Project Facilities;

vii. preventing, with the assistance of concerned law enforcement agencies where necessary, any unauthorised entry to and exit from and any encroachments on the Project Facilities;

viii. taking all reasonable measures for the safety of all the occupants, workmen, material, supplies and equipment installed in the Project Facilities.

(b) The Concessionaire shall regularly carry out the necessary preventive maintenance activities for their Project Facility to ensure adherence to the Construction Requirements throughout the Concession Period.

B. Emergency Maintenance Activities

(a) The Emergency Response Protocol ("ERP") shall be developed by Concessionaire for their Project Facility in consultation with the local police, hospital/ambulance services, fire departments and other authorities/support personnel and the Project Engineer.

(b) The ERP shall set out steps to be taken and measures to be adopted by the Concessionaire in responding to dealing with Emergency including those situations related to vehicle accidents, fire in Project Facilities involving personal injuries or fatalities, property damage and force Majeure.

(c) In case of Emergency, the Concessionaire shall

(i) carry out such emergency maintenance and repairs as may be required to repair the damages, if any, where required under the supervision of the police in order to ensure that the Project Facilities are returned to normal operating standards as quickly as possible.

(ii) follow the relevant operating procedure including the setting up of temporary traffic cones and lights as well as the removal of obstruction and debris expeditiously.

4. Safety

The Concessionaire shall implement a Safety Management Programme in line with relevant guidelines.

Article 18

SCHEDULE 6

SCOPE OF WORK OF PROJECT ENGINEER OR PROJECT MANAGEMENT CONSULTANT

1. Role of the Project Engineer or Project Management Consultant (PMC)

The PMC is expected to play a positive and independent role in discharging its functions, thereby facilitating the smooth implementation and operation of the Project.

Broadly, the role of the Project Engineer is to:

(a) report to the Parties on the various physical, technical and financial aspects of the Concession terms based on inspections, site visits and Checks,

(b) assist the Parties in arriving at an amicable settlement of disputes, should the need arise, and

(c) review matters related to safety measures adopted by the Concessionaire for the Project facility.

2. Scope of Services

The services to be provided by the PMC are listed below. In addition, the scope of services would also include such other functions as are required to be undertaken pursuant to specific provisions of the Agreement.

2.1 Implementation Period - Design and Planning

(a) Review of the following submitted by the Concessionaire :

(i) Implementation Plan;

(ii) Condition of the site and other construction in the Project facility.

2.2 Implementation Period – Construction of internal partitions & refurbishment

(a) The PMC would monitor, in accordance with Good Industry Practice, the progress in implementation and ensure compliance with the Construction Requirements. For this purpose the Project Engineer shall undertake, inter-alia, the following activities and where appropriate make suitable suggestions:

i. monitor the progress in implementation of the Commercial Facility;

ii. review the safety measures implemented;

2.3 Operations Period

Review of operations of Project Facilities every 6 months for the first one year of operations.

2.4 Breach of Obligations

If during the course or upon review / inspection undertaken by the PMC or otherwise, it transpires that either of the Parties is in breach/ default of any of its obligations under the Agreement, the Project Engineer shall, under intimation to the other Party, require the defaulting Party to remedy such breach/ default within such time and in such manner as the Project Engineer may deem fit and in each case the same shall be recorded.

2.5 Meetings, Records and Reporting

(a) The PMC would be required to participate in the review meetings held from time to time by the Parties.

(b) The PMC shall, in the ordinary course, maintain record of the activities undertaken by it in discharge of its functions and responsibilities. This would include records in respect of the following:

  (i) Inspections undertaken and notices/ instructions issued to the Concessionaire;

  (ii) Review of compliance with facility mamangement Requirements;

(iii) Force Majeure Events;

(iv) Breaches and defaults by the Parties; and

(c) The PMC would be required to submit the following reports to the Parties during his tenure:

- Report as may be reasonably required by BDA or as may be necessary to give effect to the provisions of the Agreement.
- Alarm signals, if any.

Article 19

SCHEDULE 7

PERFORMANCE SECURITY

(PROFORMA OF BANK GUARANTEE)

THIS DEED OF GUARANTEE executed on this the _____day of _____at

_____ by _____ (Name of the Bank)

having its Head / Registered office at _____ hereinafter referred to as "the Guarantor" which expression shall unless it be repugnant to the subject or context thereof include successors and assigns;

In favour of

The Commissioner, BDA, T. Chowdaiah Road, Kumarakrupa West, Bangalore – 560 020, hereinafter referred to as "BDA", which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns.

WHEREAS

A. By the Concession Agreement being entered into between BDA and _____, a company incorporated under the provisions of the

Companies Act, 1956, having its registered office/ permanent address at _____ ("the Concession Agreement"), the Company/firm has been granted the Concession to implement the project envisaging marketing, operations, maintenance and transfer of the Commercial Complex hereinafter referred to as Project Facility

B. In terms of the Concession Agreement, the Company is required to furnish to BDA, an unconditional and irrevocable bank guarantee for an amount of Rs. 1,00,00,000/- (Rupees One Crore Only) as security for due and punctual performance/discharge of its obligations under the Concession Agreement, relating to achieving operations of the Project, substantially in the format annexed as Schedule 3 to the Concession Agreement.

C. At the request of the Company, the Guarantor has agreed to provide guarantee, being these presents guaranteeing the due and punctual performance/discharge by the Company of its obligations under the Concession Agreement relating to achieving operations of the Project.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

1. Capitalised terms used herein but not defined shall have the meaning assigned to them respectively in the Concession Agreement.

2. The Guarantor hereby irrevocably guarantees the due and punctual performance by M/s._____ (hereinafter called "the Concessionaire") of all its obligations relating to achieving operations of the Project during the Concession Period.

3. The Guarantor shall, without demur, pay to BDA sums not exceeding in aggregate 1,00,00,000/- (Rupees One Crore Only), within thirty (30) calendar

days of receipt of a written demand therefore from BDA stating that the Company has failed to meet its performance obligations under the Concession Agreement. The Guarantor shall not go into the veracity of any breach or failure on the part of the Concessionaire or validity of demand so made by BDA and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Concessionaire or any other Person. The Guarantor's obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof.

4. In order to give effect to this Guarantee, BDA shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Concession Agreement or other documents or by the extension of time for performance granted to the Company or postponement/non exercise/ delayed exercise of any of its rights by BDA or any indulgence shown by BDA to the Concessionaire and the Guarantor shall not be relieved from its obligations under this Guarantee on account of any such variation, extension, postponement, non exercise, delayed exercise of any of its rights by BDA or any indulgence shown by BDA provided nothing contained herein shall enlarge the Guarantor's obligation hereunder.

5. This Guarantee shall be irrevocable and shall remain in full force and effect until _____ unless discharged/released earlier by BDA in accordance with the provisions of the Concession Agreement. The Guarantor's liability in aggregate be limited to a sum of 1,00,00,000/- (Rupees One Crore Only).

6. This Guarantee shall not be affected by any change in the constitution or winding up of the Concessionaire/the Guarantor or any absorption, merger or amalgamation of the Concessionaire/the Guarantor with any other Person.

7. The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorised to execute this Guarantee pursuant to the power granted under _____.

IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN.

SIGNED AND DELIVERED

by _____Bank

by the hand of Shri _____

its _____and authorised official.

Article 20

SCHEDULE 8

COPY OF JOINT BIDDING AGREEMENT / MEMORANDUM OF UNDERSTANDING

(to be attached by the Concessionaire in case of the Consortium)